

Commodity Credit Corporation, USDA

§ 1400.210

of active personal labor or active personal management, or a combination of active personal labor and active personal management to the farming operation. The combined interest of all the income beneficiaries providing active personal labor or active personal management, or a combination of active personal labor and active personal management must be at least 50 percent;

(c) The trust has provided a tax identification number of the trust unless the trust is a revocable trust and the grantor is the sole income beneficiary; and

(d) The trust has provided a copy of the trust agreement to the county committee unless the trust is a revocable trust.

§ 1400.206 Estates.

(a) For 2 program years after the program year in which an individual dies the individual's estate shall be considered to be actively engaged in farming if:

(1) The estate makes a significant contribution of either:

(i) Capital, equipment, or land; or

(ii) A combination of capital, equipment, or land; and

(2) The personal representative or heirs of the estate collectively make a significant contribution of either:

(i) Active personal labor or active personal management; or

(ii) A combination of active personal labor and active personal management.

(b) After the period set forth in paragraph (a) of this section, the deceased individual's estate shall not be considered to be actively engaged in farming unless, on a case by case basis, the Deputy Administrator determines that the estate has not been settled primarily for the purpose of obtaining program payments.

§ 1400.207 Landowners.

A person who is a landowner, including landowners with an undivided interest in land, making a significant contribution of owned land to the farming operation, shall be considered to be actively engaged in farming with respect to such owned land, if the landowner receives rent or income for such use of the land based on the land's pro-

duction or the operation's operating results. A landowner also includes a member of a joint operation if the joint operation holds title to land in the name of the joint operation and if the joint operation or its members submit adequate documentation to determine that, upon dissolution of the joint operation, the title to the land owned by the joint operation will revert to such member of such joint operation.

§ 1400.208 Family members.

With respect to a farming operation conducted by persons, a majority of whom are individuals who are family members, an adult family member who makes a significant contribution of active personal management, active personal labor, or a combination of active personal labor and active personal management shall be considered to be actively engaged in farming.

§ 1400.209 Sharecroppers.

A sharecropper who makes a significant contribution of active personal labor to the farming operation shall be considered to be actively engaged in farming.

§ 1400.210 Deceased and incapacitated individuals.

The determining authority shall take into consideration the circumstances involving individuals who have died or become incapacitated during the program year or fiscal year, as applicable. If the individual dies or is incapacitated before a determination is made that the individual is "actively engaged in farming," the representative of the deceased individual's estate or the incapacitated individual, or other person if necessary, must provide the determining authority information to verify that such individual did make a conscious effort to and would have been determined to be actively engaged in farming if not for the individual's death or incapacitation. If the individual dies or is incapacitated after being determined to be "actively engaged in farming," the determining authority shall allow such determination to be in effect for that program year or fiscal year, as applicable. However, the following year such individual or the

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individual's estate must meet all necessary requirements in order to be determined to be "actively engaged in farming" for that year.

§ 1400.211 Persons not considered to be actively engaged in farming.

An individual or entity who does not satisfy all of the provisions of §§1400.202 through 1400.210 and a landowner who rents land to a farming operation for cash or a crop share guaranteed as to the amount of the commodity shall not be considered to be actively engaged in farming.

§ 1400.212 Hybrid seed producers.

The existence of a hybrid seed contract for a producer shall not be taken into account when making an actively engaged in farming determination with respect to such producer. However, such producer must satisfy all other applicable provisions of this part.

§ 1400.213 Military personnel.

If an individual is called to active duty in the military because of Operation Iraqi Freedom, or any other similar military operation, before a determination is made that the individual is actively engaged in farming, the individual may be considered to be actively engaged in farming if the determining authority determines that such individual did make a conscious effort to, and would have been determined to be, actively engaged in farming if the individual would not have been called to active duty. If the individual is called to active duty after being determined to be actively engaged in farming, such determination shall remain in effect for the program year.

[68 FR 33346, June 4, 2003]

Subpart D—Permitted Entities

§ 1400.301 Limitation on the number of entities through which an individual or entity may receive a payment and required notification.

(a) An individual may receive a payment under a program specified in §1400.1(a) either directly or indirectly from no more than three permitted entities. An individual who receives such a payment shall notify the county committee in the county in which such

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individual maintains a farming operation whether or not the farming operation is to be considered a permitted entity. An individual may only receive such payments as a result of a farming operation conducted by:

(1) The individual and by no more than two entities in which the individual holds a substantial beneficial interest; or

(2) No more than three entities in which the individual holds a substantial beneficial interest.

(b) Except for entities specified in paragraph (c) of this section, each entity entering into a contract or agreement under a program specified in §1400.1(a) shall, by the date the contract or agreement is submitted to the county committee, notify in writing:

(1) Each individual or other entity that acquires or holds an interest in such entity of the requirements and limitations provided in this part; and

(2) The county committee of the name and social security number of each individual and the name and taxpayer identification number of each entity that holds or acquires a substantial beneficial interest in such entity.

(c) Entities shall not be subject to the provisions of paragraph (b) of this section if, as determined by the Deputy Administrator:

(1) Because of the number of members of such entity no member is likely to have a substantial beneficial interest in such entity; and

(2) Such provisions would cause undue financial hardship on such entity.

(d)(1) An individual or entity that holds a substantial beneficial interest in more than the number of permitted entities specified in paragraph (a) of this section for which a contract or agreement has been submitted to the county committee shall notify the county committee in writing, in each county in which they conduct a farming operation, of those entities that shall be considered as permitted entities by a date as determined by the Deputy Administrator following the date the contract or agreement was submitted to the county committee.